

REMARKS

New claim 121 has been added. Claims 60-121 are currently pending in the present application.

In the Office Action dated July 12, 2002, the Examiner took the position that claims 61-120 are directed to an invention that is independent or distinct from the invention originally claimed in the present application. The applicant respectfully disagrees with this position for the following reasons.

The Patent Cooperation Treaty (PCT) Unity of Invention rules apply to the present application since it is the national phase of an International patent application under the PCT. Under Rule 13 of the PCT Unity of Invention rules, there is unity of invention between a product and a method of using that product provided that (1) the product as claimed, has the activity as claimed, and (2) there is a special technical feature common to the product and method of use claims. The product, as claimed in original claim 1, is a composition comprising a sugar-cane derived extract. The claimed activity of new claim 61 is as a preventive or remedy for infection for man and animals. The product, as claimed in claim 1 (i.e. a preventative or remedy for infection comprising sugar-cane extract) has the activity as claimed. Thus, element (1) of the test is satisfied. Claim 1 and claim 61 also have a common special technical feature, namely, the use of the composition to prevent or remedy infection. The Examiner has not demonstrated that this common special technical feature, i.e. use of the composition to prevent or remedy infection, is known in the prior art and thus unity of invention exists between original claim 1 and claim 61.

This can be confirmed by reference to Example 4 of the Examples Concerning Unity of Invention that were published in the PCT Gazette, No. 24, Section IV, pp. 9478-9489 (1996) (copy of page 9479 enclosed herewith). Example 4 is reproduced below for the convenience of the Examiner.

No. 24/1996

PCT GAZETTE - SECTION IV

9479Example 4

Claim 1: Use of a family of compounds X as insecticides.

Claim 2: Compound X₁ belonging to family X.

Provided X₁ has the insecticidal activity and the special technical feature in claim 1 is the insecticidal use, unity is present.

As can be seen from Example 4, there is unity between a product claim (claim 2 of Example 4) and a single method of using that product (claim 1 of Example 4), if the product has the claimed activity (insecticidal activity in Example 4). The common special technical feature of Example 4 is the insecticidal use. This use is analogous to the claimed use of the composition of original claim 1 to prevent or remedy infection, which appears in claim 61. Accordingly, for this reason, it is considered that under the PCT Unity of Invention rules, there is unity between claim 61 and claim 1. The same analysis applies to dependent claims 62-90.

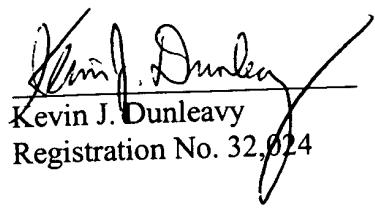
With respect to claim 91, there is unity of invention between claim 31 and original claim 31 for the same reason as given above with respect to claims 1 and 61. More specifically, the product, as claimed in original claim 31, is an anti-endotoxin composition comprising a sugar-cane derived extract. The claimed activity of new claim 91 is as an anti-endotoxin. The product, as claimed in claim 1 (i.e. an anti-endotoxin composition comprising sugar-cane extract) has the activity as claimed. Thus, element (1) of the test is satisfied. Claim 31 and claim 91 also have a common special technical feature, namely, the use of the composition as an anti-endotoxin agent. The Examiner has not demonstrated that this common special technical feature, i.e. use of the composition as an anti-endotoxin agent, is known in the prior art and thus unity of invention exists between original claim 31 and claim 91. The same analysis applies to dependent claims 92-120.

Thus, unity of invention exists between claims 1-60 and claims 61-120. Accordingly, favorable consideration and examination of claims 61-120 is respectfully requested.

Out of an abundance of caution, the applicant has amended the present application to add new claim 121, which is identical to canceled claim 1, in order to prevent abandonment of the application. If claims 61-120 are examined in this application, it is the applicant's intention to cancel claim 121 without prejudice to resubmission.

Should the Examiner have any questions or wish to discuss this matter further, the Examiner is encouraged to call the applicant's representative, Kevin Dunleavy, at 215-599-0600 in order to more expeditiously advance the examination of this application.

Respectfully submitted,


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Date: July 24, 2002

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Example 4

Claim 1: Use of a family of compounds X as insecticides.

Claim 2: Compound X₁ belonging to family X.

Provided X₁ has the insecticidal activity and the special technical feature in claim 1 is the insecticidal use, unity is present.

Example 5

Claim 1: A process for treating textiles comprising spraying the material with a particular coating composition under special conditions (e.g., as to temperature, irradiation).

Claim 2: A textile material coated according to the process of claim 1.

Claim 3: A spraying machine for use in the process of claim 1 and characterized by a new nozzle arrangement providing a better distribution of the composition being sprayed.

The process according to claim 1 imparts unexpected properties to the product of claim 2.

The special technical feature in claim 1 is the use of special process conditions corresponding to what is made necessary by the choice of the particular coating. Unity exists between claims 1 and 2.

The spraying machine in claim 3 does not correspond to the above identified special technical feature. Unity does not exist between claim 3 and claims 1 and 2.

Example 6

Claim 1: A fuel burner with tangential fuel inlets into a mixing chamber.

Claim 2: A process for making a fuel burner including the step of forming tangential fuel inlets into a mixing chamber.

Claim 3: A process for making a fuel burner including casting step A.

Claim 4: An apparatus for carrying out a process for making a fuel burner including feature X resulting in the formation of tangential fuel inlets.

Claim 5: An apparatus for carrying out a process for making a fuel burner including a protective housing B.

Claim 6: A process of manufacturing carbon black including the step of tangentially introducing fuel into a mixing chamber of a fuel burner.

Unity exists between claims 1, 2, 4 and 6. The special technical feature common to all the claims is the tangential fuel inlets. Claims 3 and 5 lack unity with claims 1, 2, 4 and 6 since claims 3 and 5 do not include the same or corresponding special technical feature as set forth in claims 1, 2, 4 and 6. Claims 3 and 5 would also lack unity with one another.